

JUDGE SWAIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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251 WEST 36TH STREET LLC,

Plaintiff,

-against-

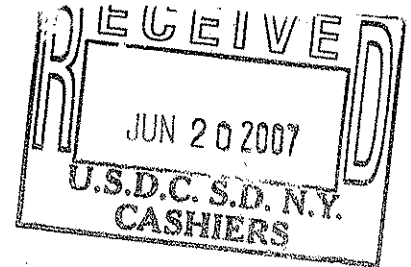
MICHAEL FISHMAN, PRESIDENT, LOCAL 32BJ,
SERVICE EMPLOYEES INTERNATIONAL UNION,

Defendant.
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07 CIV 5860
ECF CASE

NOTICE OF REMOVAL
OF A CIVIL ACTION

07 CIV



Defendant Michael Fishman, President, Local 32BJ, Service Employees International Union ("Union" or "Local 32BJ"), by his attorneys, submits this petition for removal pursuant to 28 U.S.C. §§ 1441 and 1446.

1. Plaintiff 251 West 36th Street LLC ("Employer") commenced an action in the Supreme Court of the State of New York, County of New York entitled *251 West 36th Street LLC, Petitioner, against Michael Fishman, President, Local 32BJ, Service Employees International Union, Respondents*, bearing Index No. 107835/2007.
2. Plaintiff's Notice of Petition to Vacate an Arbitration Award, Verified Petition To Vacate The Arbitration Award along with Affidavit In Support of Petition to Vacate The Arbitration Award, were received by Defendant on or about June 12, 2007. Copies of the same are annexed as **Exhibit 1**, **Exhibit 2**, and **Exhibit 3** respectively.
3. The Union is a labor organization within section 2(5) of the Labor Management Relations Act ("Act"), 29 U.S.C. § 152(5), that represents approximately 85,000 employees "in an industry affecting commerce" within the meaning of section 301(a) of the Act, 29 U.S.C. §

185(a). The Union's headquarters are at 101 Avenue of the Americas, New York, New York 10013.

4. The Union and Plaintiff are parties to a collective bargaining agreement ("Agreement"), with effective dates October 1, 2004 through December 31, 2007. The Agreement provides for arbitration of disputes arising under the Agreement. A copy of the arbitration provision in the Agreement is annexed to Plaintiff's Petition as Exhibit F.

5. Pursuant to the Agreement, the Union notified the Employer of its intent to arbitrate the Employer's reduction in force at premises 215-59 West 36th Street, in violation of the Agreement. By this action, the Employer seeks to vacate the award of the arbitrator, issued May 1, 2007, directing the Employer to: (1) restore the bargaining unit to its original size of four; (2) pay health and welfare fund contributions that would have been owed if not for the unauthorized reduction in force; and (3) pay the remaining workers who performed additional duties all wages saved as a result of the unauthorized reduction in force.

6. The Agreement is a "contract[]" between an employer and a labor organization representing employees in an industry affecting commerce." 29 U.S.C. § 185(a).

7. This action, therefore, is a civil action over which this Court has jurisdiction, arising under section 301(a) of the Act, 29 U.S.C. § 185(a), which in material part provides:

Suits for violation of contracts between an employer and an organization representing employees in an industry affecting commerce as defined in this Act . . . may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount of controversy or without regard to citizenship of the parties.

8. Accordingly, this action may be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

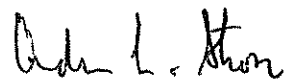
9. Defendant has not served an answer, made motions, or made any appearance or argument in the state court action.

10. This Notice of Removal is filed within 30 days after receipt by Defendant of the papers annexed as Exhibits hereto, and before any proceedings thereon were held in the state court action.

WHEREFORE, Defendant respectfully request that the state court action be removed from the New York State Supreme Court, County of New York to this Court.

Dated: New York, New York
June 20, 2007

Office of the General Counsel
SEIU Local 32BJ

By: 
Andrew L. Strom (AS 2695)

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